THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17711 of 2007

21-08-2007

Between:

Smt. Garikimukkala Ratna Kumari

Petitioner

And

The Eluru Municipal Corporation
Rep., by its Commissioner,
Eluru, West Godavari district and three others.

Respondents.

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17711 of 2007

Oral Order:

Petitioner claims that her family owns an extent of 209.6 square yards in T.S.No. 1648 of Eluru bearing D.No.7C-13/24 with a tiled house. The property is said to belong to one Ms. G. Nakshtram, the petitioner's mother-in-law. She claims to be looking after the affairs of the joint family including this property. Petitioner does not plead to have any authority to represent a litigative interest in respect of this land. From the vague pleadings in

paragraph No.3 of the affidavit filed in support of the writ petition, perhaps the petitioner's husband may have inherited the property from his late mother-G. Nakshtram, who is said to be the original owner of the property.

According to the writ petition, the third respondent is the owner of adjacent land to the above property on the southern side. The third respondent is said to be constructing a terraced building. The fourth respondent, the father of the third respondent, is the owner of the land to the northern side of the property in which the petitioner resides.

Petitioner alleges that the third and fourth respondents are encroaching on the vacant site in the property in which the petitioner resides and that they have also applied to the first respondent for permission for construction of the building. The petitioner states to have made an application dated 21-06-2007 to the Town Surveyor, Municipal Corporation, Eluru for survey of the property in which she resides and an application to the first respondent to consider her objections before granting construction permission to the third and fourth respondents. Petitioner also states to have filed O.S.No.632 of 2007 before the learned Principal Junior Civil Judge, Eluru against the third and fourth respondents seeking a permanent injunction restraining these respondents (defendants in the suit) from interfering with the peaceful possession and enjoyment of the property in

which she resides. Initially a temporary injunction was granted on 13-07-2007 in I.A.No. 1902 of 2007. The said injunction was however not extended.

Petitioner is aggrieved that the first respondent granted permission to the third respondent on 20-07-2007 for construction of a building without considering her objections. Hence the writ petition is filed for a direction to the first respondent to consider her representation dated 21-06-2007 and to pass appropriate orders thereon.

First respondent is not authorized to adjudicate disputed questions of title or any disputes as to encroachment by private persons into the lands of other persons even within the territory over which the first respondent has domain as a Municipal Corporation. Such disputes ought to be adjudicated before the Civil Court of competent jurisdiction. The petitioner states that she has filed O.S.No.632 of 2007 whereat interim injunction was granted, but was not extended thereafter. Petitioner cannot seek a relief in the nature of an injunction from the first respondent. She has to pursue the remedies either in the suit or in an appropriate proceeding before the Civil Court.

In any event, the petitioner has not shown any authority to represent the litigative interests in respect of the property in an extent of 209.6 square yards in T.S.No. 1648 of Eluru bearing D.No. 7C-13/24 with tiled house. She has not pleaded that she inherited title to the property

under any testamentary disposition by Smt. G. Nakshtram, her late mother-in-law. If the petitioner's husband inherited such title, in the absence of any power of attorney executed in her favour authorizing her to represent his legal interests including in the property in question, the petitioner cannot maintain a *lis*.

For all the above reasons, this Court discerns no merit in the writ petition. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated: 21-08-2007
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